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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DANIEL, JAMAL D

ART UNIT	PAPER NUMBER
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3723

NOTIFICATION DATE	DELIVERY MODE
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09/03/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/552,979	Applicant(s) DRIESEN ET AL.	
	Examiner JAMAL DANIEL	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-13 and 15-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12 October 2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “pitch circle” of claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 11 is objected to because of the following informalities: There appears to be a misspelling. Should “appoint” be “a point”? Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In re claim 1, Applicant claims a ram that “serves for accommodating a bristle cluster”. It is unclear to the Examiner what “accommodating” means in this context. The common dictionary meaning of “accommodate” is to provide convenience for. Such a definition does not make sense when referring to a ram and brush bristles. Please clarify or use alternative wording.

6. In re claim 7, said claim is improperly dependent on cancelled claim 5.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-4, 6-10, 13, 15 and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 801,026 (Liebig).**

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9. In re claim 1, Liebig discloses a bristle cluster stuffing tool ram (17) having an end face comprising: a pressing surface, the pressing surface having a cross-sectional area bounded by broad longitudinal sides and face sides; wherein the pressing surface includes: end face regions; and a central face region, the central face region being wider than the end face regions as measured between the broad longitudinal sides of the ram (best illustrated in Fig. 6).

10. In re claim 2, Liebig discloses a central face region disposed between end face regions and is provided in part by an enlarged projecting area on one of the broad longitudinal sides of the ram.

11. In re claim 3, Liebig discloses a ram wherein both broad longitudinal sides of the ram have an enlarged projecting area.

12. In re claim 4, Liebig discloses a transition to the enlarged projecting area comprising a step in form of a narrower face side and in that a width of the end face region essentially corresponds to a width of the holding element.

13. In re claim 6, Liebig discloses an enlarged projecting area comprising a projection of rectangular shape.

14. In re claim 7, Liebig discloses an enlarged projecting area comprising a projection of trapezoidal shape.

15. In re claim 8, Liebig discloses an enlarged projecting area comprising a projection in form of a pitch circle.

16. Regarding the limitations of claim 8, the Examiner interprets said claim as referring to a ram projection that fits inside the perimeter of a circle without interfering

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with said circle perimeter. Thus, the trapezoidal projection of the prior art would not interfere with a circle that bounds the prior art ram, meeting the limitations of the claim.

17. In re claim 9, Liebig discloses a constant cross section along the length of the ram.

18. In re claim 10, Liebig discloses a ram that widens in a wedge shape.

19. Regarding the limitations of claim 10, the Examiner interprets the widening starting from the leftmost point and moving rightward on the face of the ram as a wedge shaped widening, thus meeting the limitations of the claim. Note, this limitation can be read broadly because Applicant has not specified the axis or direction of widening.

20. In re claim 13, Liebig discloses the claimed apparatus as applied to claim 1.

21. Regarding the specific limitation of claim 13 regarding "a toothbrush", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

22. In re claim 15, Liebig discloses one of the broad longitudinal sides of the ram is sized to be narrower than a diameter of a borehole into which the ram is configured to stuff bristles.

23. In re claims 17-18, Liebig discloses the claimed method.

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

26. **Claims 11, 12, 16, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebig.**

27. In re claims 11, 12, 16, 20 and 21, Liebig discloses the claimed invention except for explicit angles of widening and percentages of projection with respect to the width of the holding element and end regions. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the optimal angle of widening and size of projection, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

28. **Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebig in view of US Patent 746,943 (Fisher et al).**

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29. In re claims 19 and 22, Liebig discloses the claimed method except for pressing the holding elements into boreholes inclined relative to a longitudinal axis of the ram. However, Fisher et al discloses the claimed limitation. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the ram of Liebig to press holding elements into boreholes inclined relative to a longitudinal axis of the ram since angled boreholes are a very old concept as taught by Fisher et al. The structure of Liebig meets the structural limitations of the claim and is therefore able to perform the claimed method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMAL DANIEL whose telephone number is (571)270-5706. The examiner can normally be reached on Monday - Friday 7:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571)272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMAL DANIEL/
Examiner, Art Unit 3723

/Joseph J. Hail, III/
Supervisory Patent Examiner, Art Unit 3723